

To: snowflake enterprises, llc(Steve.maynard2@yahoo.com)
Subject: U.S. TRADEMARK APPLICATION NO. 87496454 - NIGGA- N/A
Sent: 12/06/2018
Sent As: tmng.notices@USPTO.GOV
Attachments

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

U.S. APPLICATION SERIAL NO. 87496454

MARK: NIGGA



CORRESPONDENT ADDRESS:

CLICK HERE TO RESPOND TO THIS LETTER:

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*SNOWFLAKE ENTERPRISES, LLC
822 KING ST., UNIT 111
ALEXANDRIA VA 22314 UNITED STATES*

APPLICANT: snowflake enterprises, llc

CORRESPONDENT'S REFERENCE/DOCKET NO:

N/A

CORRESPONDENT E-MAIL ADDRESS:

Steve.maynard2@yahoo.com

SUSPENSION NOTICE: NO RESPONSE NEEDED

ISSUE/MAILING DATE: 12/06/2018

STATUS OF THE APPLICATION

This Notice of Suspension responds to applicant's communication dated 08/27/2018 where applicant:

1. Requested that the application be removed from suspension because (a) the earlier-filed pending application is void *ab initio* and (b) the scandalous provision of Section 2(a) impermissibly restricts free speech and therefore is unconstitutional.

The examining attorney has reviewed the applicant's response and determined the following:

1. Applicant's request that the application be removed from suspension is ***denied***. Initially, applicant's arguments

that the earlier-filed pending application is void *ab initio* are inconsistent with the relevant rules and applicant's arguments about the knowledge and intentions of the owner of the earlier-filed application constitute a collateral attack on that application, which is impermissible in this *ex parte* proceeding. Further, as the constitutionality of the scandalous provision of Section 2(a) has not been finally decided, applicant's conclusion that Section 2(a) is unconstitutional is premature.

ACTION IS SUSPENDED

The trademark examining attorney is suspending action on the application for the reason stated below. *See* 37 C.F.R. §2.67; TMEP §§716 *et seq.*

Action is Suspended Pending FINAL decision in *In re Brunetti*, Ser. No. 85310960, 2014 TTAB LEXIS 328 (Aug. 1, 2014)

As stated in a previous Office action, applicant's mark, **NIGGA**, appears to consist of or include matter that may be immoral or scandalous, and would normally be refused registration under Trademark Act Section 2(a). *See* Trademark Act Section 2(a), 15 U.S.C. §1052(a); TMEP §1203.01. However, the constitutionality of this provision remains subject to potential U.S. Supreme Court review because the parties in *In re Brunetti*, 877 F.3d 1330, 125 USPQ2d 1072 (Fed. Cir. 2017) (*reh'g en banc denied*, No. 2015-1109 (Apr. 12, 2018) (per curiam)) have petitioned the Court for a writ of certiorari. *See* Sup. Ct. R. 13. Because the constitutionality of the scandalous provision of Section 2(a) remains in question, **action on this application is SUSPENDED** until either the Court (1) denies certiorari or (2) grants certiorari and subsequently terminates the U.S. Supreme Court proceedings in the case, after which the USPTO will reevaluate the need for further suspension. *See* 37 C.F.R. §2.67; TMEP §§716, 716.02(d).

Action is Suspended Pending Disposition of an Earlier Filed Application

The effective filing date of pending application Serial No. 87495358 precedes the filing date of this application. If the mark in the referenced application registers, applicant's mark may be refused registration under Section 2(d) because of a likelihood of confusion with that registered mark. *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, action on this application is suspended until the earlier-filed referenced application is either registered or abandoned. 37 C.F.R. §2.83(c). *A copy of information relevant to this referenced application was attached previously.*

NO RESPONSE REQUIRED

The USPTO will periodically conduct a status check of the application to determine whether suspension remains appropriate, and the trademark examining attorney will issue as needed an inquiry letter to applicant regarding the status of the matter on which suspension is based. TMEP §§716.04, 716.05. Applicant will be notified when suspension is no longer appropriate. *See* TMEP §716.04.

If applicant wants to respond, applicant should use the "Response to Suspension Inquiry or Letter of Suspension" form online at <https://teas.uspto.gov/rsi/rsi>. If applicant has questions about its application or this Notice of Suspension, please telephone the assigned trademark examining attorney directly at the number below. Otherwise, no response is necessary.

/Myriah Habeeb/
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PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the Trademark Electronic Application System (TEAS) form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

IMPORTANT NOTICE REGARDING YOUR U.S. TRADEMARK APPLICATION

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED ON FOR U.S. APPLICATION SERIAL NO. 87496454

Please follow the instructions below:

(1) TO READ THE LETTER: Click on this [link](#) or go to <http://tsdr.uspto.gov/>, enter your U.S. application serial number, and click on "Documents."

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) QUESTIONS: For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For technical assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail TSDR@uspto.gov.

WARNING

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Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the "United States Patent and Trademark Office" in Alexandria, VA; or sent by e-mail from the domain "@uspto.gov." For more information on how to handle private company solicitations, see http://www.uspto.gov/trademarks/solicitation_warnings.jsp.